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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/088,340	06/25/2002	Manfred Weuthen	C2065 PCT/US	9203

23657 7590 09/22/2004

COGNIS CORPORATION  
PATENT DEPARTMENT  
300 BROOKSIDE AVENUE  
AMBLER, PA 19002

EXAMINER
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DOUYON, LORNA M

ART UNIT	PAPER NUMBER
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1751

DATE MAILED: 09/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/088,340

Applicant(s)

WEUTHEN ET AL.

Examiner

Lorna M. Douyon

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 29 June 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 11-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 11-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

1. This action is responsive to the amendment filed on June 29, 2004.
2. Claims 1-10 have been previously canceled. Claims 11-30 are pending.
3. The rejection of claims 11-20 under 35 U.S.C. 102(b) as being anticipated by Marsh et al. (US Patent No. 4,076,800), hereinafter "Marsh" is withdrawn in view of applicants' amendment.
4. Claims 21-30 stand rejected under 35 U.S.C. 102(b) as being anticipated by Marsh for the reasons set forth in the previous office action.
5. The rejection of claims 11-14, 18-20 under 35 U.S.C. 102(b) as being anticipated by Sayers et al. (US Patent No. 3,594,324), hereinafter "Sayers" is withdrawn in view of applicants' amendment.
6. Claims 21-24 and 28-30 stand rejected under 35 U.S.C. 102(b) as being anticipated by Sayers for the reasons set forth in the previous office action.
7. The rejection of claims 15-17 under 35 U.S.C. 103(a) as being unpatentable over Sayers as applied to the above claims is withdrawn in view of applicants' amendment.
8. Claims 25-27 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Sayers for the reasons set forth in the previous office action.

9. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

10. Claims 11-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lang et al. (US Patent No. 6,051,544), hereinafter "Lang".

Lang teaches pulverulent or granular secondary alkanesulfonate, essentially comprising finely divided, solid secondary alkanesulfonate and an additive (see abstract), which can be converted into solid extrudates, such as washing bars, bar soaps or toilet blocks, to give pressed articles, e.g. tablets or compacts (see col. 3, lines 9-12), wherein the secondary alkanesulfonate can be used in the finished detergent and cleaning product formulations in combination with other surfactants (see col. 3, lines 14-17) like anionic surfactants such as fatty acid-protein condensation products obtained by reaction of fatty acid chlorides with oligopeptides (see col. 4, lines 56-61). The total concentration of surfactants, including the sec. alkanesulfonate can be from 1% to 99%, is preferably between 5% and 80%, and is particularly preferably between 5% and 40% (see col. 3, lines 18-21). Suitable additives are celluloses and derivatives thereof, such as carboxymethylcellulose, methylcellulose or hydroxyethylcellulose (see col. 2, lines 45-52) in a concentration from 0.1 to 10% based on sec. alkanesulfonate (see col. 3, lines 1-3). Additional detergent ingredients which may be included comprise builders in proportions from about 5% to about 80% by weight in the detergent and cleaning-product compositions for example, alkali metal salts of polyphosphates (see col. 7, lines 22-34). The compositions may also contain cationic surfactants (see col. 7, lines 8-9), which would also be construed as not having cationic

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surfactants. Lang, however, fails to specifically disclose a composition comprising fatty acid-protein condensation products obtained by reaction of fatty acid chlorides with oligopeptides.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate anionic surfactants such as fatty acid-protein condensation products because this is one selection of other anionic surfactants which is suitable additive for the composition as taught by Lang.

### *Double Patenting*

11. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

12. Claims 11-30 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 12 and 19 of copending Application No. 10/130,738 in view of Lang.

The copending application teaches a similar detergent composition and similar process for making the detergent composition with the exception of adding an anionic surfactant and phosphates in the composition.

Lang teaches the features as described above. In particular, Lang teaches compositions comprising secondary alkanesulfonate and phosphates which can be converted into tablets (see above).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate secondary alkanesulfonate and phosphates into the composition of the copending application because these are common ingredients which can be used in the finished detergent and cleaning product formulations as taught by Lang.

This is a provisional obviousness-type double patenting rejection.

13. Claims 11-20 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 11-20 of copending Application No. 10/130,841 in view of Lang.

The copending application teaches a similar detergent composition with the exception of adding an anionic surfactant and phosphates in the composition.

Lang teaches the features as described above. In particular, Lang teaches compositions comprising secondary alkanesulfonate and phosphates which can be converted into tablets (see above).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate secondary alkanesulfonate and phosphates into the composition of the copending application because these are common ingredients which can be used in the finished detergent and cleaning product formulations as taught by Lang.

This is a provisional obviousness-type double patenting rejection.

*Response to Arguments*

14. Applicants' arguments filed June 29, 2004 have been fully considered but they are not persuasive.

With respect to the rejection based upon Marsh or Sayers, Applicants argue that each of the references fails to disclose the use of the claimed proteins which are condensation products of hydrolysates with fatty acids.

The Examiner respectfully disagrees with the above arguments because the remaining presently rejected process claims require only a non-enzymatic protein and/or derivative thereof, which said proteins are taught by each of Marsh or Sayers, and do not require condensation products of hydrolysates with fatty acids. Please note that only the composition claims require the condensation products of hydrolysates with fatty acids. Accordingly the rejections of the present process claims 21-30 are proper and maintained.

*Conclusion*

15. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

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will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

16. The prior art made of record and not relied upon is considered pertinent to applicants' disclosure. The references are considered cumulative to or less material than those discussed above.

17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lorna M. Douyon whose telephone number is (571) 272-1313. The examiner can normally be reached on Mondays-Fridays from 8:00AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta can be reached on (571) 272-1316. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*Lorna M. Douyon*  
**LORNA M. DOUYON**  
**PRIMARY EXAMINER**